

EXHIBIT

C

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1 -----
 2 (There was a recess in the proceedings.)
 3 -----

4 BY MR. PIETZ:

5 Q. Have you had a chance to look through Exhibit
 6 8?
 7 -----

8 (The witness reviewed the Exhibit.)
 9 -----

10 MR. SMOCK: Jim, can you tell us how
 11 many pages that exhibit is?
 [REDACTED]

1 the cost was more and it took longer to get the
 2 reporting than LexisNexis.

3 Q. Um-hum.

4 A. So we used LexisNexis more than Accurate.

5 Q. Okay. I see.

6 And then the last page of this
 7 exhibit is something that was just produced to
 8 me yesterday. And can you tell me what this
 9 is?

10 A. American Background service --
 11 [REDACTED]

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1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 A. Yes.

12 Q. Okay, so I'm trying to understand, was there
 13 just -- in order to do credit reports and
 14 background checks did you just use one agency
 15 or did you have a series of them at one time?

16 A. We have had two until recently and we have now
 17 signed a contract with American Background.

18 Q. But the two you had until recently were -- you
 19 had them simultaneous?

20 A. Yes.

21 Q. Okay, what's the reason for that, why did you
 22 have to have two different ones?

23 A. Accurate Background service is a local service
 24 that's in Ocala. And Securant is a database
 25 service, now LexisNexis. Accurate Background,

11 A. Yes.

12 Q. When these agreements were entered did you --
 13 who was responsible for negotiating these
 14 agreements?

15 A. Securant and LexisNexis was done by Mary Price,
 16 Securant, at the time. And she was the HR
 17 manager.

18 Q. Okay.

19 A. Since Mary left Jennifer Boring also is
 20 involved in that.

21 Q. Okay. The Securant agreement that starts on
 22 188, is that -- is that 188 to 191, is that the
 23 agreement?

24 A. This is the contract that I see.

25 Q. And I'm just trying to understand, that was a

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1 contract that appears to be entered August 31st
 2 of '04?
 3 A. Okay.
 4 Q. Is that right? Okay.
 5 And then the next document that
 6 begins at 192, that is another -- that's a
 7 contract with LexisNexis, as I understand? Can
 8 you tell me that entire agreement, you know,
 9 the page range for that agreement.
 10 A. I can't tell you, no.
 11 Q. Okay, but then at Page 196, does that show
 12 Jennifer Boring's signature?
 13 A. Yes.
 14 Q. Dated August 26, 2005?
 15 A. Yes.
 16 Q. So that's the agreement with LexisNexis?
 17 A. Yes.
 18 Q. Did you have occasion to review this agreement?
 19 A. No.
 20 Q. Jennifer Boring was responsible for negotiating
 21 this?
 22 A. Yes.
 23 Q. And to your knowledge did she review this
 24 thoroughly?
 25 A. I have no way of knowing.

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1 Q. Do you see, going on to 197, there is an
 2 Appendix A?
 3 A. Yes.
 4 Q. Do you remember ever reviewing this information
 5 in connection with this agreement?
 6 A. No.
 7 Q. Do you know if Jennifer Boring reviewed it?
 8 A. I don't know.
 9 Q. Did this -- would the information that's here,
 10 would this be information that you would
 11 utilize in coming up with your policies and
 12 practices for obtaining consumer reports?
 13 MS. DANAHER: That's what he's asking
 14 you, just this page.
 15 THE WITNESS: I mean, it's not in
 16 order.
 17 MS. DANAHER: Wait, you're asking
 18 specifically about Page 197, right?
 19 MR. PIETZ: Yes.
 20 MS. DANAHER: Okay, so take your time
 21 and read that.
 22 MR. PIETZ: I see what you mean, it
 23 may be out of order, but I think that's the way
 24 it was produced to me.
 25 MS. DANAHER: I apologize if that's

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1 confusing.
 2 MR. PIETZ: Okay, I see it.
 3 MR. NORTH: Yes, I put this back
 4 together the right way, I think, if that will
 5 help you.
 6 MS. DANAHER: Can we go off the
 7 record for a minute?
 8 ----
 9 (There was a discussion off the record.)
 10 ----
 11 MR. PIETZ: The documents between 192
 12 and 206 appear to me to be part of the same
 13 contract, based upon the page numbers where it
 14 says Page -- well, now it gets more confusing.
 15 MS. DANAHER: Off one more minute.
 16 ----
 17 (There was a discussion off the record.)
 18 ----
 19 (There was a recess in the proceedings.)
 20 ----
 21 BY MR. PIETZ:
 22 Q. We left off with this exhibit that you
 23 rearranged --
 24 A. Yes, that's correct.
 25 Q. -- I guess, would be fair to say.

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1 So can you just maybe, on the record,
 2 describe what you did?
 3 A. I used the page numbers at the bottom, Page 1
 4 of 14, 2 of 14, 3 of 14, put them in
 5 simultaneous order.
 6 Q. Okay.
 7 A. 14 of 14.
 8 Q. Okay. And the first agreement is which one?
 9 A. Securant.
 10 Q. And that -- okay, how many pages is that?
 11 A. Fourteen.
 12 Q. Okay. All right. And that's the one that was
 13 signed by?
 14 A. Mary Price.
 15 Q. Mary Price? Okay.
 16 And then what's the second agreement
 17 in that exhibit?
 18 A. LexisNexis.
 19 Q. Okay. And how many pages is that?
 20 A. Five.
 21 Q. Okay. And that was the agreement signed by
 22 Jennifer Boring?
 23 A. Yes.
 24 Q. And that's dated?
 25 A. 8-26-2005.

23 (Pages 89 to 92)

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<p>1 Q. Okay. And then the next document is --</p> <p>2 A. It's Accurate Background check.</p> <p>3 Q. Okay. And is that -- that's another company</p> <p>4 that --</p> <p>5 A. It's an addendum, yes.</p> <p>6 Q. And what's it an addendum to?</p> <p>7 A. Pricing. And it was to Mary Price from Lola</p> <p>8 Gonzalez.</p> <p>9 Q. Okay. And then the final page of that is the</p> <p>10 document with respect to American Background</p> <p>11 that we talked about already.</p> <p>12 A. That is correct.</p> <p>13 Q. That was just produced.</p> <p>14 A. And that was signed in April of '09.</p> <p>15 Q. Okay. All right.</p> <p>16 MS. DANAHER: This will be one</p> <p>17 collective Exhibit 8 then, as we described it.</p> <p>18 MR. PIETZ: Yes, one Exhibit 8.</p> <p>19 BY MR. PIETZ:</p> <p>20 Q. Were these -- going back to this series of</p> <p>21 documents that are represented in Exhibit 8,</p> <p>22 were these documents that were used as a basis</p> <p>23 to comply with the FCRA?</p> <p>24 A. These are contracts that allowed us to access</p> <p>25 an individual's background.</p>	<p>1 Q. Okay. Do you see No. 1? Can you read that?</p> <p>2 Let me read it to you.</p> <p>3 It says, prior to procuring a</p> <p>4 consumer report, a clear and conspicuous</p> <p>5 disclosure, consisting solely of the</p> <p>6 disclosure, that a consumer report might be</p> <p>7 obtained for employment purposes must be made</p> <p>8 to the applicant.</p> <p>9 What did that language -- what does</p> <p>10 that language, consisting solely of the</p> <p>11 disclosure, mean to you?</p> <p>12 A. That they need to be notified of their rights.</p> <p>13 Q. I understand that.</p> <p>14 A. And that they would sign off on us getting</p> <p>15 their background.</p> <p>16 Q. But the language that says, consisting solely</p> <p>17 of the disclosure, what does that mean?</p> <p>18 A. I don't understand what it reads, I'm just</p> <p>19 thinking.</p> <p>20 Q. Well, if a disclosure included a release of all</p> <p>21 claims against ClosetMaid and its affiliates</p> <p>22 and its representatives would that be a</p> <p>23 disclosure consisting only of the disclosure?</p> <p>24 MS. DANAHER: Object to the extent</p> <p>25 that it calls for a legal conclusion.</p>
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<p>1 Q. All right. But isn't it also true that there</p> <p>2 were certain appendix that were attached that</p> <p>3 described requirements under the Fair Credit</p> <p>4 Reporting Act?</p> <p>5 A. There are appendix attached.</p> <p>6 Q. Were these appendices used as a basis for</p> <p>7 ClosetMaid's endeavor to comply with the Fair</p> <p>8 Credit Reporting Act?</p> <p>9 A. We have a standard operating procedure that was</p> <p>10 in place, I believe, at the time that these</p> <p>11 were signed.</p> <p>12 Q. Okay. At any point in time did you compare</p> <p>13 those procedures with the requirements that are</p> <p>14 outlined in these appendices?</p> <p>15 A. I did not.</p> <p>16 Q. Did anyone at the company?</p> <p>17 A. I don't know.</p> <p>18 Q. Did you ask anyone to do it?</p> <p>19 A. No.</p> <p>20 Q. Did anyone in -- did you provide these</p> <p>21 agreements to any of the lawyers to review?</p> <p>22 A. Not that I'm aware of.</p> <p>23 Q. Let's look at, it would be Page 5 of 14. Do</p> <p>24 you see that Appendix A?</p> <p>25 A. I do.</p>	<p>1 MR. PIETZ: No, I'm not asking for a</p> <p>2 legal conclusion.</p> <p>3 MS. DANAHER: I understand, I just</p> <p>4 need to put that on the record.</p> <p>5 THE WITNESS: Again, it's my opinion,</p> <p>6 so I don't know. I mean, you could -- it's</p> <p>7 interpretation of what this document states.</p> <p>8 MR. PIETZ: This is 9.</p> <p>9 -----</p> <p>10 (Exhibit No. 9 marked for identification.)</p> <p>11 -----</p> <p>12 MR. NORTH: Marie, did she have a</p> <p>13 hand in preparing this? I assume she did or</p> <p>14 we're wasting our time.</p> <p>15 BY MR. PIETZ:</p> <p>16 Q. Okay, this is -- this is Exhibit 9, but this</p> <p>17 was a document that was produced with the</p> <p>18 supplemental disclosures that we recently got</p> <p>19 that was identified as Exhibit G.</p> <p>20 Can you tell me what this document</p> <p>21 is?</p> <p>22 A. It is a document that was submitted to our</p> <p>23 attorney giving you information of how many</p> <p>24 applications that we took from 12-1-06 until</p> <p>25 June 30th of '09.</p>

1 And under, Candidates, that is the
 2 number of resumes or applications that were
 3 selected --

4 Q. Okay, we'll go through it.

5 Let me just -- let's back up a second
 6 and me ask you, first of all, what was the
 7 reason that this was developed, to your
 8 understanding?

9 A. It was asked for on the number of applications.

10 Q. Okay, but -- okay, explain to me, then, why you
 11 created this form.

12 A. We created the form to try to give our attorney
 13 the information that was requested on how many
 14 applications that we took during this period of
 15 time.

16 MS. DANAHER: And if you'll allow me
 17 to clarify, it wasn't a confidential
 18 communication, it was in response to your
 19 discovery requests that you and I discussed.

20 MR. PIETZ: Right.

21 MR. NORTH: Please drop in any time.

22 MS. DANAHER: I just wanted to let
 23 you know.

24 MR. NORTH: Yes, I appreciate that.

25 BY MR. PIETZ:

1 Q. Right. At any point in the process is
 2 applicant information input into a computer?

3 A. We have applicant flow logs.

4 Q. What is that?

5 A. It is a list of candidates.

6 Q. Okay. And when you say, list, what's on the
 7 list?

8 A. Basic information on the job that they're
 9 applying for.

10 Q. Okay.

11 A. Their name.

12 Q. Okay. Address?

13 A. The date they applied. I don't think the
 14 address is on there. The date they applied and
 15 the disposition.

16 Q. Okay. And that -- how is that stored
 17 electronically?

18 A. I don't know if it purges after two years or
 19 not, I honestly don't know.

20 Q. Okay. But there is some mechanism where
 21 applicant information is put in through some
 22 form of a database?

23 A. In some locations, yes. Others were just
 24 handwritten on a log.

25 Q. Okay. And what happens to the logs?

1 Q. All right, you referenced a time frame of
 2 12-1-06 to some time in '09. How did that time
 3 frame -- why was that time frame created?

4 A. Because the Cathy Reardon case was from
 5 12-1-06, so we froze all files at that point in
 6 time.

7 Q. Okay. I see. And are you saying that
 8 documentation with respect to the years prior
 9 doesn't exist?

10 A. No, it does not.

11 Q. Is there any kind of documents that can be used
 12 to identify that, any kind of electronic or
 13 other type of information --

14 A. Applicants?

15 Q. Yes.

16 A. No.

17 Q. Okay. And what is your document retention
 18 policy?

19 A. Two years.

20 Q. Two years. Can you be more descriptive?

21 A. We keep applications two years.

22 Q. Okay.

23 A. So on 12-1-08 or 12 of '08, the following month
 24 we would destroy all of December. So it's a
 25 running --

1 A. After two years they're destroyed.

2 Q. The document retention policy, is that a
 3 uniform policy throughout all the locations?

4 A. Yes. Yes. And the applicant flow log is part
 5 of our affirmative action plan and it is
 6 destroyed after two years.

7 Q. Okay, but it's put into a computer somehow?

8 A. Like I stated, it could be handwritten or it's
 9 put in a computer.

10 Q. Okay, but you -- yeah, you indicated there was
 11 some form of computer entry where it goes to a
 12 database.

13 A. In some locations.

14 Q. Okay, in some locations.

15 A. Right.

16 Q. Do you know which locations those are?

17 A. I'm not positive.

18 Q. Okay. Let's look at this -- this form. Who
 19 created this?

20 A. It was a combination between Jennifer Boring
 21 and Pat Dameron because of their responsibility
 22 of locations.

23 Q. Okay. And what did they do to create this?

24 A. They used data, the applicant flow logs, data
 25 from Oracle and our affirmative action plan.

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1 Q. What do you mean Oracle?	1	considered an applicant, because they need
2 A. Oracle is the system I discussed earlier that	2	experience to be in that position.
3 was the payroll software system.	3	Q. I understand.
4 Q. How would that contain information -- would	4	A. But they applied through a resume. But their
5 that contain information about applicants?	5	basic resume shows that they are, maybe,
6 A. It may.	6	qualified, based on their resume.
7 Q. Okay. Now, tell me what -- let's go through	7	Q. Okay.
8 this, and there's different columns here. Can	8	A. So that's why I said not necessarily. At this
9 you tell me why you came up with these	9	point it could be a resume, but they are a
10 different columns?	10	potential applicant for the position that's
11 A. In the far right you have two columns that say,	11	available.
12 Candidates and Applicants. A candidate is --	12	Q. Okay. But you would have a copy of a form that
13 Q. Okay, we're going to go from the right to left?	13	they signed and filled out; isn't that right?
14 A. Yes, we are.	14	A. I would have a resume at that point in time.
15 Q. Okay.	15	Q. Okay.
16 A. I don't know why. I'm sorry, I don't know why.	16	A. Or an application, depending on how they
17 The right, a candidate is anyone that	17	applied.
18 applied for a position that was open. And an	18	Q. I understand. But whether or not they signed
19 applicant is anyone that expressed interest in	19	the FCRA forms -- can I call them the FCRA
20 that position and possesses the qualifications	20	forms now? That could be determined simply by
21 for that job.	21	going to their file and looking to see if they
22 Q. Okay, let me see if I understand. A candidate	22	signed a form.
23 would be someone that may not be qualified,	23	A. That's correct.
24 but, nevertheless, applied?	24	Q. Okay. Okay, so they may or may not have gotten
25 A. Yes.	25	to the point where an FCRA form was filled out?
Page 102		Page 104
1 Q. Whereas an applicant is someone that's	1	A. That is correct.
2 qualified and applied?	2	MR. NORTH: Candidate or applicant?
3 A. That's correct.	3	MR. PIETZ: Applicant. We're talking
4 Q. So they both would be considered -- they both	4	about applicants, on the left.
5 applied for this?	5	MR. NORTH: Which is smaller than
6 A. It's one minus the other --	6	candidates.
7 MS. DANAHER: To the extent that	7	THE WITNESS: Right.
8 applied hasn't been defined, do you mean	8	MS. DANAHER: Can we agree that no
9 writing out an application? Maybe that needs	9	candidates filled out an application form, so
10 to be clarified.	10	we can cross that off?
11 MR. PIETZ: Yeah, let's approach it	11	MR. PIETZ: Okay, that was going to
12 that way.	12	be my next question.
13 BY MR. PIETZ:	13	MS. DANAHER: I'm sorry.
14 Q. Let's start with the applicants, did they	14	MR. PIETZ: Okay.
15 complete the forms that we've been talking	15	BY MR. PIETZ:
16 about, the consent form and go through that	16	Q. So moving right to left, the candidates,
17 procedure?	17	though, okay, as counsel indicated, they were
18 A. Not necessarily.	18	people who may have sent in a resume, but never
19 Q. And why not necessarily?	19	got to the point of filling out any form?
20 A. I can give you an example to where you can	20	A. No, that's not correct. I'm sorry.
21 understand.	21	MS. DANAHER: It's not your fault.
22 Q. Okay.	22	THE WITNESS: A candidate is anyone
23 A. Someone applies for an accounting manager	23	that applies for a position. If they were in
24 position. And they've never been in accounting	24	Ocala they may have came in and completed an
25 in their life. So they're not going to be	25	application, they didn't have a resume.

1 BY MR. PIETZ:

2 Q. Okay.

3 A. So it could be either resume or application.

4 Q. Okay. But what about the FCRA forms?

5 A. They aren't completed yet.

6 Q. So none of the people in the candidate column
7 would have filled out an FCRA form?

8 MR. NORTH: Well, later they might
9 have, right?

10 THE WITNESS: Later. Later.

11 MR. PIETZ: Okay.

12 THE WITNESS: But at the time of
13 submitting their resume or application that is
14 not the process.

15 MR. NORTH: You explained that
16 earlier, that once you make the cut there's a
17 subuniverse of people who sign the forms,
18 right?

19 THE WITNESS: Right.

20 BY MR. PIETZ:

21 Q. The bottom line, I guess, is, though, with
22 respect to the candidates, we could determine,
23 from going to their file and seeing what forms
24 are there, to determine whether or not they --
25 there's a form?

1 A. Correct.

2 Q. Isn't that right?

3 A. That's correct.

4 Q. All right.

5 Okay, now, going to the next column,
6 it says, Number of Credit Checks Run.

7 A. Okay, now we're going to go to the beginning.

8 Q. Okay.

9 A. So we have our applicant. I'm trying to
10 confuse you, okay?

11 MS. DANAHER: You're doing a good
12 job.

13 THE WITNESS: Okay, the first column
14 is the people that were actually hired.

15 MR. PIETZ: Okay.

16 THE WITNESS: Okay?

17 MR. NORTH: You're over in the left
18 now?

19 THE WITNESS: In the left.

20 The next column, that is headed, FCRA
21 Forms Completed and Background Checks Run, But
22 was Not Hired. So that is the group of people
23 where they actually completed the form, but for
24 some reason or another they were not hired.

25 MR. PIETZ: Okay.

1 THE WITNESS: That could be their
2 references came out really, really bad. It
3 doesn't have to be something that was on that
4 third-party report. It could be that when I
5 called them back they didn't return my call.
6 It could be they didn't show up. It could be
7 drug testing. So I don't have the specifics as
8 to why, but that's the number where we ran the
9 background.

10 BY MR. PIETZ:

11 Q. Okay, so -- just so I understand, though, the
12 column, Employees Hired, and then the next
13 column --

14 A. Um-hum.

15 Q. -- those are exclusive groups; isn't that
16 right?

17 A. Those are all together.

18 Q. No, no, what I'm saying is no one in the second
19 column is a member of the first column?

20 A. That is correct. That is correct.

21 Q. If we went to the group in the second column --

22 A. Um-hum.

23 Q. -- FCRA forms completed --

24 A. Um-hum.

25 Q. -- would we be able to determine, by looking at

1 their files, as to why they were not hired?

2 A. I think so.

3 Q. And why do you think so?

4 A. Because that's the process, that we would keep
5 their applications intact with what forms were
6 used at that time.

7 Q. Okay. But how -- what would, in the file,
8 indicate the reason for not being hired? Is
9 there some form that would explain that?

10 A. There would be an internal code that would tell
11 us it's for references or whatever.

12 Q. Okay. And it would -- there's a code for --
13 that would apply to a background check or a
14 consumer report?

15 A. Or credit.

16 Q. Okay. Now, let's go to the next column,
17 Filling out the FCRA, No Background Check.
18 What is this column?

19 A. Basically that means that an applicant was more
20 or less qualified for the position. And so if
21 you recall the procedure, we may have
22 interviewed them on the phone or whatever, we
23 decided to proceed to determine if we were
24 going forward. So we had them complete the
25 FCRA form, but somewhere before we actually

1 sent it in to get the background they were
 2 eliminated from the potential hire.
 3 Q. Okay.
 4 A. So there were that many people that completed
 5 the form --
 6 Q. Okay.
 7 A. -- but we did not complete the process and do
 8 the background.
 9 Q. Okay. So then my next question, like the
 10 previous one, this column, it is exclusive of
 11 the first two, meaning no one would be a member
 12 -- who is a member of this third column,
 13 Filling out FCRA Form, would be a member of
 14 either of the first two?
 15 A. That is correct. That is correct.
 16 MR. NORTH: Could I say one thing on
 17 the record?
 18 I bet this was hard and we really
 19 appreciate you doing it.
 20 THE WITNESS: It was.
 21 MR. NORTH: Because I've done a lot
 22 of these cases and sometimes it takes two years
 23 just to get an employer to do this. So I
 24 really appreciate it. It's really going to
 25 help us if we ever can resolve the case. And I

1 know you had help, because you couldn't
 2 possibly do it without help, but thank you. We
 3 appreciate it. It's required, but that doesn't
 4 mean it doesn't take years to get it sometimes.
 5 MR. PIETZ: And the short amount of
 6 time it was done.
 7 THE WITNESS: Very short.
 8 BY MR. PIETZ:
 9 Q. Okay, then, the next column is, Credit Checks
 10 Run.
 11 A. Um-hum.
 12 Q. Can you --
 13 A. Specifically, they're -- as I indicated
 14 earlier, there are only certain positions that
 15 we run a credit on, such as somebody that needs
 16 a credit card, somebody that is of high
 17 management and they have a fiduciary
 18 responsibility to ClosetMaid. And so we ran 36
 19 credit checks.
 20 Q. Now, this credit checks column, though, would
 21 -- they would be a member of the first two?
 22 A. Could be.
 23 Q. Or one of the two?
 24 A. Yes.
 25 Q. Okay. So what you're saying, I guess, then, if

1 we went and looked at Cathy Reardon's file --
 2 A. Um-hum.
 3 Q. -- we would be able to determine from that file
 4 why she was not hired?
 5 A. Yes.
 6 Q. Do you know why she was not hired?
 7 A. Credit.
 8 Q. Credit. And that's reflected in her file --
 9 A. Yes.
 10 Q. -- by a code?
 11 A. I have the background. I have the credit
 12 report. And it was charged off by American
 13 Express, and we could go on and on.
 14 MR. PIETZ: Now, what I wanted to do,
 15 I don't know if there's a way to short circuit
 16 it, but I have these exemplars and I wanted to
 17 sort of identify and figure out what part of
 18 ClosetMaid they represented.
 19 MS. DANAHER: Cathy can probably tell
 20 you, if you want to stay off the record for a
 21 second, she can flip through and tell you which
 22 one came from which location.
 23 To make it simple, everything I sent
 24 to you yesterday came from Chino.
 25 MR. PIETZ: I understand.

1 MR. NORTH: Can we agree, though,
 2 that everything you sent us is authentic, so we
 3 don't have to go through and authenticate a
 4 bunch of stuff? I mean, we got it from you,
 5 but if you don't agree --
 6 MS. DANAHER: Can you stipulate to
 7 their authenticity?
 8 THE WITNESS: Okay.
 9 MS. DANAHER: To say that they're a
 10 part of the business records, that someone --
 11 THE WITNESS: Okay.
 12 MS. DANAHER: -- either you or
 13 someone in your control went through --
 14 THE WITNESS: Okay.
 15 MS. DANAHER: -- and pulled that out
 16 and gave it to you and you gave it to me?
 17 THE WITNESS: Okay.
 18 MR. PIETZ: I think we're going to
 19 say it, it's just --
 20 MR. NORTH: It was our concern. His
 21 concern I think, is where, I don't think --
 22 MR. PIETZ: Well, one of the things
 23 I, you know, wanted to -- again, also, is that,
 24 you know, these are from different parts of
 25 ClosetMaid, okay? So I wanted her to identify

1 --
 2 MS. DANAHER: Yes, from the different
 3 locations, you mean.

4 MR. PIETZ: Maybe we can just go
 5 through each one.

6 MS. DANAHER: Yeah, and we may be
 7 able to do them in groups.

8 Jim, if you want to give us a second
 9 and hand us what you're looking at she can flip
 10 through, then you can just ask one question,
 11 you know, where do these --

12 MR. NORTH: Off the record.

13 ----

14 (There was a discussion off the record.)

15 ----

16 (Exhibit No. 10 marked for identification.)

17 ----

18 BY MR. PIETZ:

19 Q. Okay, looking at Exhibit 10 -- let me ask you
 20 first, just generally, as part of the discovery
 21 in this case we had an agreement with counsel
 22 that ClosetMaid would produce some exemplar
 23 files from its different locations. Tell me
 24 what you did in response to that agreement.

25 A. It was my understanding that you wanted

1 A. I don't know. I don't know. I didn't do it.
 2 Q. Who was responsible for this task?
 3 A. Pat and Jennifer.
 4 Q. Pat Dameron and Jennifer Boring?
 5 A. That is correct.
 6 Q. Okay, let's look at what we've marked as
 7 Exhibit 10.

8 Okay, Exhibit 10 is one of these
 9 exemplar files from which location?

10 A. It's one or the other, and I think it's
 11 Grantsville. It could be Belle Vernon, because
 12 of the Pennsylvania address.

13 Q. Okay.

14 MS. DANAHER: If you're going to use
 15 these as exhibits, Jim, I would simply ask that
 16 before we make them part of the deposition
 17 transcript that we be permitted to black out
 18 the personal information, because you and I
 19 have that confidentiality agreement, and there
 20 are Social Security numbers and things --

21 MR. PIETZ: Oh, yeah, I -- I would
 22 say -- I thought the confidentiality agreement
 23 would cover these. We can stipulate on the
 24 record that if they're ever filed in court
 25 that, you know, we would redact any personal

1 applications. So we went back and tried to
 2 give you examples of applications from each
 3 location.

4 Q. Okay.

5 A. And that's why they are what they are.

6 Q. And to do that, though, you went to sort of --
 7 how did you select an exemplar file?

8 A. We asked the individual locations to send us
 9 applications -- again, this was a very big task
 10 -- an application as an example from periodic
 11 times throughout the process, so that you could
 12 get a representative sample of what took place.
 13 Because as I indicated earlier, we have changed
 14 things along the way.

15 Q. So that in each respective location whoever was
 16 responsible for getting the documents would
 17 have to go to a particular file, and what were
 18 they instructed to pull out of the file?

19 A. The applications during that period of time.

20 Q. Okay. And anything else, apart from the
 21 applications?

22 A. I don't think so.

23 Q. And what about the FCRA forms?

24 A. I don't think so.

25 Q. They didn't get all the FCRA forms?

1 identifying information. In fact, I think it's
 2 a local rule here.

3 MS. DANAHER: Yes.

4 MR. PIETZ: So I really do agree to
 5 that, there's no reason we have to have that on
 6 here.

7 MS. DANAHER: Okay.

8 MR. PIETZ: I don't know that for
 9 purposes of making it a part of the deposition
 10 right now we have to go through and redact
 11 everything.

12 MS. DANAHER: Because the depositions
 13 aren't filed there would be at least that
 14 protection. And if you and I can agree that if
 15 the deposition is ever going to be disseminated
 16 or attached to anything we'll redact the
 17 information.

18 MR. PIETZ: Yes. That's correct.

19 THE WITNESS: I think that's
 20 Grantsville, Maryland.

21 ----

22 (Exhibit No. 11 marked for identification.)

23 ----

24 THE WITNESS: This is Grantsville,
 25 Maryland.

1 BY MR. PIETZ:

2 Q. And this is Exhibit 11.

3 A. Yes.

4 Q. Let me ask you, though, specifically about
5 Exhibit 11, on the last page, is that one of
6 the FCRA forms that we've been discussing
7 earlier that was used?

8 A. Yes.

9 [REDACTED]

21 Q. Okay. Was -- was this -- were these forms
22 given to the marketing department for review?

23 A. No. These are employment documents, so they
24 don't review those.

25 ----

1 some from the order that we provided them?

2 MR. PIETZ: Yes, I'm not going to go
3 through them all.

4 MR. SMOCK: Yes, I'm just asking.

5 MR. PIETZ: We don't want to be here
6 till tomorrow.

7 BY MR. PIETZ:

8 Q. Exhibit 14 was from Chino, you said?

9 [REDACTED]

20 A. Pat Dameron oversees that.

21 Q. Um-hum.

22 A. And we did have -- we've had two applications
23 -- I mean two managers at that location that
24 took applications. One of them is no longer
25 there, the other one is. So it is their

1 (Exhibit No. 12 marked for identification.)

2 ----

3 BY MR. PIETZ:

4 Q. Okay, this is the next one.

5 A. This is Grantsville, Maryland.

6 Q. That's the exemplar forms from Grantsville?

7 A. Yes. Correct.

8 ----

9 (Exhibit No. 13 marked for identification.)

10 ----

11 THE WITNESS: This is Ocala, Florida.

12 BY MR. PIETZ:

13 Q. And that's exhibit?

14 A. 13.

15 Q. 13 is from Ocala.

16 ----

17 (Exhibit No. 14 marked for identification.)

18 ----

19 BY MR. PIETZ:

20 Q. Exhibit 14.

21 A. This is from Chino, California.

22 Q. That's Exhibit 14?

23 A. Yes.

24 Q. Now, is it -- was it determined in this --

25 MR. SMOCK: Are you jumping around

1 responsibility to make sure that they're in
2 compliance with what has been set up by
3 ClosetMaid.

4 Q. Okay. And looking at this California
5 authorization or release --

6 A. Um-hum.

7 Q. -- the form that's used here, do you see it
8 also there at the last paragraph, before the
9 handwriting, it again references Emerson
10 Electric; do you see that?

11 A. Yes.

12 Q. And is that the same -- is Emerson Electric
13 there for the same reason?

14 A. The same reason.

15 Q. Okay. What's Do+Able Products?

16 A. Do+Able is the name of the company that we
17 purchased, I think it was around early '05,
18 late '04, I think it's early '05. And that was
19 their name when we purchased them.

20 Q. Yes, it's located in Chino?

21 A. Chino, California.

22 Q. Under this release form, do you see at the
23 bottom it says, Attached, please find your
24 rights under the California Consumer Reporting
25 Agencies Act?